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Letter dated 18 April 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 21 November 2003 (S/2003/1125). The Counter-Terrorism Committee has received the attached third report from the Democratic Republic of the Congo submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: French]

Letter dated 28 March 2005 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to transmit to you herewith the third report submitted by the Democratic Republic of the Congo pursuant to paragraph 6 of Security Council resolution 1373 (2001) concerning counter-terrorism (see enclosure).

(*Signed*) Atoki **Ileka**
Ambassador
Permanent Representative

Enclosure

[Original: French]

Third report submitted by the Democratic Republic of the Congo to the Committee pursuant to paragraph 6 of resolution 1373 (2001) concerning counter-terrorism

This report follows on from that submitted on 31 March 2003 by the Government of the Democratic Republic of the Congo (DRC) to the Security Council Committee established by resolution 1373 (2001) concerning counter-terrorism and issued as document S/2003/386.

It is submitted in response to the request for further clarification and information made by the Security Council Committee after consideration of the aforementioned report.

The questions raised by the Committee, to which the Government is responding in this supplementary report, relate to paragraphs 1, 2, 3 and 4 of resolution 1373 (2001) and other relevant matters.

Paragraph 1

Please describe the legal and other measures available to comply with the requirements of paragraph 1 of resolution 1373 (2001). Please provide answers in respect of each subparagraph.

Subparagraph (a)

What measures, if any, have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on subparagraphs 1 (b) to 1 (d)?

Since the Democratic Republic of the Congo's signing on 10 November 2001 of the International Convention for the Suppression of the Financing of Terrorism, the process of whose ratification the Ministry of Justice has recently initiated, the Congolese Government has promulgated Act No. 04/016 of 19 July 2004 on combating money-laundering and the financing of terrorism.

This Act marks a significant advance in the efforts of the Democratic Republic of the Congo to combat the financing of terrorism in that it:

- Punishes the financing of terrorism and money-laundering;
- Makes it an offence to provide, collect, bring together or manage funds, securities or goods by any means, either directly or indirectly, with the intention or in the knowledge that they will be used, wholly or in part, to perpetrate a terrorist act, whether or not such an act occurs;
- Also makes it an offence to convert, transfer, handle, conceal, disguise, acquire, hold or use goods;

- Also provides for both protective and punitive measures, namely:
  - freezing of assets;
  - seizure;
  - penalties; and
  - confiscation.

Subparagraph (b)

What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

The acts listed under subparagraph (a) above are defined as offences under the terms of the aforementioned Act No. 04/016 of 19 July 2004. They may incur penalties ranging from 5 to 20 years' imprisonment, together with fines equivalent to between 6 and 12 times the amount of the laundered sum.

Articles 157 to 160 of Act No. 024/2002 of 18 November 2002 on the Military Penal Code defines the following as acts of terrorism:

- Wilful attacks on human life or physical integrity, abduction and confinement of persons and the hijacking of aircraft, ships or any other means of transport;
- Theft, extortion, destruction, degradation and damage;
- Making, possessing, storing, acquiring and transferring lethal or explosive devices and appliances or other toxic biological weapons or weapons of war;
- The fact of introducing into the atmosphere, on or beneath the surface of the ground or in the water of the Republic a substance that may endanger the health of human beings or animals or the natural environment.

In addition, articles 343-345, 355, 359 and 371-400 of the 1966 legislative order on the shipping code specify a number of offences that are defined in terms similar to those applied to acts of terrorism. (The texts of these provisions will be compiled and sent at a later date to the CTC to supplement this report.)

Subparagraph (c)

What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

In addition to the responsibilities of the Public Prosecutor for investigating and punishing offences, the judicial authorities may, on the basis of reports from the Financial Intelligence Unit and the Central Bank, order the freezing of accounts and assets held in banks and financial institutions. The relevant legal provisions will also be reproduced and sent at a later date to the CTC.

Subparagraph (d)

What measures exist to prohibit the activities listed in this subparagraph?

The Act in question sets the threshold for transactions at US$ 10,000 and requires credit institutions to ascertain the identity of their client and the origin of

their funds, failing which they will be subject to fines, permanent or temporary prohibition, permanent or temporary closure and cessation of activity.

The establishment under the aforementioned Act of the Financial Intelligence Unit is a measure to detect and prevent terrorist activity in that the Unit is responsible for collecting and processing financial intelligence concerning channels for money-laundering and the financing of terrorism.

To this end, it is required to:

1. Receive, analyse and process the declarations demanded of the persons and bodies referred to in article 4 of the aforementioned Act;

2. Also receive any other useful information, particularly that communicated by the judicial authorities. The Unit may also, on its request, be notified by any public authority and any physical or legal person referred to in article 4 of information and documents in connection with investigations undertaken following a declaration of suspicion;

3. Carry out periodic studies on the development of new techniques for money-laundering and financing terrorism on the national territory;

4. Advise on the State's policy for combating money-laundering and the financing of terrorism and its implementation and propose appropriate reforms in that regard with a view to more effectively combating money-laundering;

5. Report to the Public Prosecutor.

Paragraph 2

Please describe the legal and other measures available to comply with the requirements of this paragraph.

Subparagraph (a)

What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists?

The Congolese Act of 21 February 1950 regulating firearms and ammunition makes it punishable to import, transport, possess, sell or discard firearms and ammunition.

In view of the particular situation that the country is going through, the Congolese Government has undertaken with other countries of the subregion to combat any act that threatens international peace and security.

To this end, the Democratic Republic of the Congo has signed and/or ratified:

- the Nairobi Declaration;
- the tripartite Agreement on border security in the Great Lakes region;
- the Dar es Salaam Declaration on Burundi describing the NLF as a terrorist group;

- the Treaty on the Non-Proliferation of Nuclear Weapons of 12 February 1970;
- the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects;
- the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction of 18 September 1997.

The Democratic Republic of the Congo supports the African Centre for Study and Research on Terrorism in Algiers, established by the African Union, which has been in operation since 13 October 2004.

The Congolese Government, by Order No. 003 of 31 March 2003, set up a Focal Point to coordinate action to combat illicit trafficking in small arms and light weapons. This Focal Point was officially launched on 20 October 2004.

Subparagraph (b)

What other steps are being taken to prevent the commission of terrorist acts, and, in particular, what early warning mechanisms exist to allow exchange of information with other States?

The first response to the need for a domestic early warning mechanism has been to place the Permanent Secretariat of the National Committee for Coordinating Efforts to Counter International Terrorism (CNCLT) at the highest level of government (the Presidency of the Republic).

The elite troops of the Rapid Response Police have been made available in case of an alert.

A Counter-Terrorism Division has been established at the National Intelligence Agency.

Firms suspected of relations with terrorist or pro-terrorist networks are kept under surveillance.

The Democratic Republic of the Congo participated in October 2004 in the African Union High-level Intergovernmental Meeting convened to evaluate the progress achieved and decide on ways and means of preventing and combating terrorism in Africa, in the light of the various instruments relating thereto.

Subparagraph (c)

What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.

The Congolese Act on the Immigration Police (legislative order No. 83/033 of 12 September 1983) authorizes Immigration Officers to turn back any suspect person at the borders of the Democratic Republic of the Congo. The President of the Republic is likewise bound to expel any person whose behaviour is a threat to public order.

The Act also requires the Congolese authorities to establish a list of undesirable persons so that they may be prevented from gaining access to the country. In addition, a National Immigration Commission has been established to monitor the regular updating of the list of undesirable persons established by the security services.

The Government of the DRC has promulgated Act No. 021/2002 of 16 October 2002 on the Status of Refugees.

This Act establishes a National Commission for Refugees responsible for examining requests for asylum on a case-by-case basis in order to ensure that persons prosecuted for serious criminal offences or implicated in terrorist acts cannot insinuate themselves among the asylum seekers.

In this connection, the DRC signed in February 2005, with the International Criminal Tribunal for Rwanda (ICTR) a cooperation agreement to track down and extradite persons responsible for the Rwandan genocide, designated as terrorists by the Dar es Salaam Declaration.

In the same vein, the DRC has signed judicial cooperation conventions with several countries in the region, in particular the Convention of 31 June 1975 with Burundi and Rwanda and the Convention of 12 April 1978 with the Republic of the Congo.

Subparagraph (d)

What legislation or procedures exist to prevent terrorists acting from your country against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

The legal arsenal of the DRC on the Immigration Police, the Act on the combating of money-laundering and the financing of terrorism and the establishment by presidential decree of the National Committee for Coordinating Efforts to Counter International Terrorism together with cooperation with Interpol ensure that terrorists on our territory are expelled, extradited or prosecuted and are thus prevented from acting from our country.

Subparagraph (f)

What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

The steps outlined in subparagraph (b) above and the application of measures for mutual legal assistance and extradition provide an appropriate framework in place for the prevention and suppression of the financing of terrorist acts.

Subparagraph (g)

How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery, etc.?

In addition to obligations under the Act on the Immigration Police and its implementing measures, a Commission for Combating Corruption, Fraud, and the

Smuggling and Forgery of Currency and Brands has been established by Decree No. 116/2002 of 29 August 2002.

In seaports and airports modern equipment has been installed for seeking, detecting and visualizing dangerous objects or materials that may be used for the purposes of terrorism.

Computer hardware has been installed in seaports and airports for the compilation of a database covering persons entering or leaving the territory of the DRC and the public network database is able to be used by international agencies to track down reported persons or networks.

In any case, the joint services coordinated by the CNCLT Focal Point monitor the issuance and receipt of travel documents.

Paragraph 3

The Counter-Terrorism Committee would welcome a report on the progress achieved by the Democratic Republic of the Congo with regard to becoming a party to and ratifying international conventions and protocols relating to terrorism and enacting legislation with a view to implementing these instruments. Please provide a list of countries with which the Democratic Republic of the Congo has concluded bilateral treaties on cooperation and on exchange of information.

I. Instruments ratified

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;
2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971;
4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations at New York on 14 December 1973.

II. Instruments signed

1. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations at New York on 17 December 1979;
2. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done and signed at Montreal on 23 September 1971 and 24 February 1988;
3. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.

III. Instruments being ratified or acceded to

1. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 26 October 1979 and opened for signature at Vienna and New York on 3 March 1980;

2. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted at Rome on 10 March 1988;

3. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, concluded at Rome on 10 March 1988;

4. Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1998;

5. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997;

6. United Nations Convention against Organized Transnational Crime and its Protocols, adopted by the General Assembly of the United Nations on 15 November 2000 and 31 May 2001;

7. African Union Convention on the Prevention and Combating of Terrorism of 1999.

Paragraph 4

Has the Democratic Republic of the Congo addressed any of the concerns expressed in paragraph 4 of the resolution?

5. A National Committee to Combat Drugs has been set up.

6. Act No. 04/016 of 19 July 2004 on combating money-laundering and the financing of terrorism has been promulgated.

7. The Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction has been ratified.

8. The Geneva Convention of 10 October 1980 on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects has been ratified.

9. The National Commission for Refugees has been set up.

10. The National Immigration Commission has been established.